Remark

Applicants respectfully request reconsideration of this application as amended. No Claims have been amended. No Claims have been cancelled. Therefore, claims 1-30 are present for examination.

Double Patenting

Claims 1-30 are rejected on the ground of non-statutory obviousness-type double patenting as being unpatentable over claims 1-5, 9-17, 30-31 and 36-43 of U.S. Patent No. 6,317,881. A terminal disclaimer is enclosed herewith.

35 U.S.C. §102 Rejection

Thomas et al.

The Examiner has rejected claims 1, 10, 12, 17 19 and 27-29 under 35 U.S.C. §102 (e) as being anticipated by Thomas et al., U.S. Patent Application No. US 2005/0149964 ("Thomas"). Thomas operates on the conventional view promoted for decades by the Nielsen ratings system (www.nielsenmedia.com). Accordingly Thomas only measures is how many people view a program. Commercial television is in the business of delivering "eyes" to advertisers. This system does not receive feedback about a program either directly or inherently. In the Nielsen system, a loved program broadcast at a very inconvenient viewing time (e.g. 2 am on a weeknight) will have lower ratings than a greatly disliked program broadcast during a popular prime time slot (e.g. 8pm on Thursday). Commercial networks often move shows two different broadcast times to affect ratings and boost or reduce the ratings for a show. They also use very popular shows as a magnet for new shows by broadcasting the new show immediately after the

popular show and by advertising the new show and its broadcast time heavily during the popular show.

Claim 1 is not concerned with the practices of commercial television and breaks from this tradition. Rather than indicate how many people watched or how many tuners tuned in, Claim 1 provides viewer rating based on received viewer feedback. There is no suggestion in Thomas that viewer feedback be received from viewers. Instead, at paragraph 61, information is collected on the viewing activities of the user (e.g. which programs the user watches)." Accordingly, this element of Claim 1 is not anticipated. Thomas further does not generate a rating based at least in part on the received feedback, nor does Thomas provide such a rating to the viewer.

The Examiner suggests that feedback is inherent since the ratings of any broadcast program inherently includes positive and negative comments. On the contrary, the fact that the monitored tuner tuned to a program or did not tune to a program does not necessarily indicate a positive or a negative comment. The tuner may have been left on based on a previous show while no viewers were present. The viewer may have watched the show in preference to the other currently broadcast shows but still have a negative opinion. The viewer may have tried the show but not liked it. There are similarly many reasons why a tuner may not be tuned in to a show that a viewer has a high opinion of.

In the Nielsen view, it does not matter what the viewer thinks of the show. The only thing that matters is how many people are watching the advertisements. The Nielsen system delivers that information. In the present invention viewer ratings based at least in part on viewer feedback is being delivered. This information is not directly relevant to how to set prices for advertising, but it may be extremely helpful to a viewer that is trying to decide which program to watch.

All of the independent claims contain limitations similar to those discussed above for Claim 1. Accordingly, all of the claims are believed to be allowable on these grounds, *inter alia*.

35 U.S.C. §103 Rejection

Thomas in view of Wheatley

The Examiner has rejected claim 2 under 35 U.S.C. §103 (a) as being unpatentable over Thomas et al., U.S. Patent Application No. US 2005/0149964 ("Thomas"), in view of Wheatley et al., U.S. Patent No. 5,512,933 ("Wheatley"). Wheatley describes collecting ratings information for use only by the broadcaster. In the present invention ratings information based at least in part on received viewer feedback is provided to the viewer.

35 U.S.C. §103 Rejection

Thomas in view of McKenna

The Examiner has rejected claims 3, 4, and 18 under 35 U.S.C. §103 (a) as being unpatentable over ("Thomas"), in view of McKenna et al., U.S. Patent No. 4,816,904 ("McKenna"). McKenna describes collecting survey information for use only by the broadcaster. It also appears as if it is only the commercials for which surveys are given (1:60-64, 2:27-31, 11:28-32). In the present invention ratings information based at least in part on received viewer feedback is provided to the viewer.

35 U.S.C. §103 Rejection

Thomas in view of Logan,Herz, Sahai, Lett, and Barrett

The Examiner has made further rejections based on combinations of Thomas in view of various other references including Logan et al., U.S. Patent No. 5,732,216 ("Logan"), Herz,et al., U.S. Patent No. 5,758,257 ("Herz"), Sahai et al., U.S. Patent No. 6,594,699 ("Sahai"), Lett, U.S. Patent No. 5,539,822 ("Lett"), and Barrett, U.S. Patent No. 6,005,597 ("Barrett"). Only one of these references, Logan, suggests that users should be allowed to receive program ratings, but this is directed to Internet radio. Applicants respectfully submit that it would not be obvious to adapt this Internet radio system to video broadcast as in the present invention.

The remaining references do nothing to suggest that viewers be provided with ratings and therefore suffer these rejections suffer the same shortcomings as the Thomas combinations mentioned above.

Accordingly, these rejections as to the remaining claims are respectfully traversed.

Conclusion

Applicants respectfully submit that the rejections have been overcome by the amendment and remark, and that the claims as amended are now in condition for allowance. Accordingly, Applicants respectfully request the rejections be withdrawn and the claims as amended be allowed.

Invitation for a Telephone Interview

The Examiner is requested to call the undersigned at (303) 740-1980 if there remains any issue with allowance of the case.

Request for an Extension of Time

Applicants respectfully petition for an extension of time to respond to the outstanding Office Action pursuant to 37 C.F.R. § 1.136(a) should one be necessary. Please charge our Deposit Account No. 02-2666 to cover the necessary fee under 37 C.F.R. § 1.17(a) for such an extension.

Charge our Deposit Account.

Please charge any shortage to our Deposit Account No. 02-2666.

Respectfully submitted,
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP

Date: March 15, 2006

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